

COPY

DEBRA W. YANG
 United States Attorney
 SANDRA BROWN
 Assistant United States Attorney
 Chief, Tax Division
 DARWIN THOMAS
 Assistant United States Attorney
 Federal Building Room 7211
 300 North Los Angeles Street
 Los Angeles, California 90012
 Telephone: (213) 894-2400 x2740
 Facsimile: (213) 894-0115
 Email: darwin.thomas@usdoj.gov

MARY E. BIELEFELD
 Trial Attorney, Tax Division
 U.S. Department of Justice
 Post Office Box 7238
 Ben Franklin Station
 Washington, D.C. 20044
 Telephone: (202) 514-9375
 Facsimile: (202) 514-6770
 Email: mary.e.bielefeld@usdoj.gov
central.taxcivil@usdoj.gov

Attorneys for United States

IN THE UNITED STATES DISTRICT COURT FOR THE
 CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL MUHAMMAD
 a/k/a MICHAEL EUGENE WALL
 a/k/a MICHAEL MUTA ALI
 MUHAMMAD,

Defendant.

CV05-6039 RGK (SSX)
 Civil No.

**Complaint for Permanent
 Injunction**

Plaintiff United States of America, for its complaint against defendant
 Michael Muhammad, a/k/a Michael Eugene Wall, a/k/a Michael Muta Ali
 Muhammad, states as follows:

Complaint for Permanent Injunction

United States v. Michael Muhammad

2005 AUG 18 AM 10:53
 CLERK, U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES

FILED

Jurisdiction and Venue

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and the Internal Revenue Code (I.R.C.), 26 U.S.C. §§ 7402(a), 7407, and 7408.

2. This suit is brought under I.R.C. §§ 7402, 7407, and 7408, to enjoin Muhammad permanently from:

(a) assisting in the preparation of federal tax returns that he knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;

(b) acting as an income tax return preparer (as defined in I.R.C. § 7701(a)(36));

(c) organizing or selling abusive tax shelters, plans, or arrangements that advise or encourage taxpayers to attempt to evade the assessment or collection of their correct federal tax;

(d) engaging in any activity subject to penalty under I.R.C. §§ 6700, 6701, 6694, 6695, or any other penalty provision in the I.R.C.; and

(e) engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws and from promoting any false tax scheme.

3. This action has been requested by the Chief Counsel of the Internal Revenue Service (IRS), a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, under I.R.C. §§ 7402, 7407, and 7408.

4. On information and belief, Muhammad resides at 433 S. Beredno, Apt. 202, Los Angeles, California 90020, within this judicial district. Muhammad is also known as Michael Eugene Wall, a/k/a Michael Muta Ali Muhammad.

5. Venue is proper in this Court under 28 U.S.C. § 1391.

Defendant's Activities

6. Muhammad helps organize or promote a tax-fraud scheme by preparing federal income tax returns for customers that report no income based on the frivolous position that the United States includes "only the District of Columbia and territories over which the federal government has exclusive jurisdiction."

1 7. Muhammad advises his customers that the United States is a foreign
2 country in relation to California (or any other state), and that the customers are
3 citizens of California (or another state, if the customer resides elsewhere) and not
4 of the United States.

5 8. According to Muhammad, federal taxes withheld from his customers'
6 earnings in California (or another state) are being withheld by a foreign country,
7 which entitles the customer to a foreign earned income exclusion and reduces their
8 taxable income to zero.

9 9. Muhammad prepares IRS Form 2555, Foreign Earned Income, falsely
10 reporting that the customer spent the entire tax year living outside the United
11 States and that his or her income is therefore excludible from income on their
12 federal income tax returns, Forms 1040 or 1120.

13 10. Muhammad then reports the customer's income on federal income tax
14 returns, but then improperly excludes all the income using IRS Form 2555,
15 Foreign Earned Income, and falsely reduces the customer's income to zero.

16 11. Since 2001, Muhammad has prepared at least ten individual income tax
17 returns and one corporation income tax return for customers falsely reporting zero
18 taxable income and seeking refunds of all federal income taxes withheld.

19 12. Muhammad charges each customer a fee ranging from \$60 to \$500 per
20 return.

21 13. Muhammad prepares tax returns for customers in California and
22 includes with the return, a one-page explanation of his position that income earned
23 in a state is not taxable.

24 14. The net result of this arrangement is that the income tax returns
25 Muhammad prepares falsely report no taxable income.

15. In the years following Muhammad's preparation of a customer's return, the customer has little or no federal income tax withheld, and the customer ceases filing returns.

16. Muhammad also falsely and fraudulently advises his customers that wages or earnings from labor are not subject to tax because the term “income” is not defined by statute or case law as specifically including wages or earnings from labor.

17. Muhammad prepares at least 12 income tax returns or amended returns per year for customers and has been preparing returns claiming zero taxable income using Form 2555, Foreign Earned Income, since 2001.

18. The returns Muhammad prepares fail to provide the preparer's Social Security Number (SSN), preparer tax identification number (PTIN), or employer identification number (EIN).

19. Muhammad claims to have studied the Internal Revenue Code, to have taken a basic tax law course offered by H & R Block, and to have written the one-page attachment to Form 2555 included with the returns he prepares, explaining the frivolous position taken in the tax return.

20. Muhammad intends to continue to function as an income tax return preparer and promoter and insists on the viability of the position on which his tax-fraud scheme is based.

21. Despite being advised by the Internal Revenue Service that his conduct (including the specific activities described above in paragraphs 6 through 20) is subject to penalty and injunction, Muhammad has not stopped promoting his tax-fraud scheme or preparing false and fraudulent returns.

Harm to the Public

22. Muhammad's customers have been harmed by his promoting a tax-fraud scheme and preparing false and fraudulent tax returns, because his customers

1 paid him money to prepare tax returns understating their income tax liabilities
2 resulting in the likely audit of their returns and assessment of tax, penalties, and
3 interest.

4 23. The United States is harmed because Muhammad's customers are not
5 paying the correct amount of tax to the United States Treasury. Although five of
6 the eleven returns admittedly prepared by Muhammad and filed for 2001 and 2002
7 have been identified by IRS and claims for refund totaling \$43,866 have been
8 disallowed, other returns prepared by Muhammad may result in erroneous refunds
9 to his customers.

10 24. In addition, taxpayers participating in Muhammad's tax-fraud scheme
11 later cease filing tax returns altogether, forcing the IRS to divert some of its
12 limited resources to investigate, conduct audits, and prepare substitute tax returns.

13 25. The United States is also harmed because the IRS is forced to devote
14 resources to identify and recover this lost revenue from Muhammad's customers.
15 Moreover, given the IRS's limited resources, identifying and recovering all
16 revenues lost from Muhammad's tax-fraud scheme may be impossible.

17 26. In addition to the harm caused by his advice and services, Muhammad's
18 activities undermine public confidence in the fairness of the federal tax system and
19 encourage non-compliance with the internal revenue laws.

20 **Count I**

21 **Injunction under I.R.C. § 7407 for Violations** 22 **of I.R.C. §§ 6694 and 6695**

23 27. The United States incorporates by reference the allegations in
24 paragraphs 1 through 26.

25 28. Section 7407 of the Internal Revenue Code authorizes a court to enjoin
26 an income tax return preparer from:

27 (a) engaging in conduct subject to penalty under I.R.C. § 6694 (which
28 penalizes a tax return preparer who prepares or submits a return that

contains an unrealistic position or who knew or reasonably should have known the position was not realistic and was frivolous),

(b) engaging in conduct subject to penalty under I.R.C. § 6695 (which penalizes a return preparer who fails to furnish an identifying number of the income tax return preparer on a return as required by I.R.C. § 6109(a)(4)),

(c) engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

if the court finds that injunctive relief is appropriate to prevent recurrence of such conduct. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct and that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a federal income tax return preparer.

29. Muhammad is an income tax return preparer under I.R.C. § 7701(a)(36) because he prepares federal income tax returns (Forms 1040 and 1120) for compensation and signs the returns as a paid preparer.

30. Muhammad prepares federal income tax returns (Forms 1040 and 1120) claiming foreign earned income exclusions for customers living within the United States and understates their tax liability based on the false and fraudulent position that the United States is a foreign country in relation to California (or other state), and earnings withheld by a foreign county entitles the customers to a foreign earned income exclusion thereby reducing their taxable income to zero.

31. Specific examples of the impact of Muhammad's unrealistic position in preparing federal income tax returns, are:

A. After a tax return prepared for a California customer improperly excluded income using the foreign earned income Form 2555, the customer failed to file a return at all in the following year. IRS prepared a return

1 resulting in an income tax deficiency of \$25,000 (plus interest and
2 penalties) being assessed against the customer.

3 b. Two other California customers failed to file income tax returns
4 for the years 2002, 2003, and 2004, after having filed a return prepared by
5 Muhammad for the year 2001.

6 32. Because of his knowledge in tax matters, Muhammad knew or should
7 have known that the positions asserted on his customers' returns were unrealistic
8 within the meaning of I.R.C. § 6694.

9 33. Muhammad has engaged in other fraudulent and deceptive conduct that
10 substantially interferes with the proper administration of the internal revenue laws
11 within the meaning of I.R.C. § 6695, by failing to furnish an identifying number of
12 the income tax return preparer on a return as required by I.R.C. § 6109(a)(4).

13 34. Muhammad's actions, as described above, fall within I.R.C.
14 §§ 7407(b)(1)(A) and (D), and are thus subject to injunction under I.R.C. § 7407.

15 35. Muhammad should be permanently enjoined from acting as a federal
16 income tax return preparer because unless enjoined he is likely to continue to
17 engage in this unlawful conduct.

18 **Count II**

19 **Injunction under I.R.C. § 7408 for Violations** 20 **of I.R.C. §§ 6700 and 6701**

21 36. The United States incorporates by reference the allegations in
22 paragraphs 1 through 35.

23 37. Section 7408 of the Internal Revenue Code authorizes a court to enjoin
24 persons engaging in any conduct subject to penalty under §§ 6700 or 6701 of the
25 Code, or engaging in any other activity subject to penalty under the Code, if the
26 court finds that injunctive relief is appropriate to prevent recurrence of that
27 conduct.

1 38. Section 6700 of the Internal Revenue Code penalizes any person who
2 organizes, promotes, or sells a plan or arrangement and makes, in connection with
3 organizing or selling the plan or arrangement, a statement regarding the
4 excludibility of income or securing of any other tax benefit that the person knows
5 or has reason to know is false or fraudulent as to any material matter.

6 39. Section 6701 of the Internal Revenue Code penalizes any person who
7 aids or assists in, procures, or advises with respect to the preparation or
8 presentation of a federal tax return, claim for refund, or other document while
9 knowing (or having a reason to believe) that the return, claim, or other document
10 will be used in connection with any material matter arising under the internal
11 revenue laws and if used, would result in an understatement of another's tax
12 liability.

13 40. Muhammad knows or has reason to know that his tax-fraud scheme
14 contains false or fraudulent statements within the meaning of I.R.C. § 6700.

15 41. Customers rely on Muhammad's false or fraudulent statements and file
16 tax returns substantially and materially understating their income based on
17 Muhammad's statements. Thereafter, the customers cease filing tax returns
18 altogether.

19 42. By preparing income tax returns for his customers which improperly
20 claim exclusions from income and fail to report income based on this tax-fraud
21 scheme, Muhammad has engaged in preparing or presenting a portion of a tax
22 return or other document, knowing that such portion will be used in connection
23 with a material matter arising under the internal revenue laws, and knowing that
24 such portion (if so used), would result in understating the tax liability of another
25 person. Muhammad's conduct is thus subject to penalty under I.R.C. § 6701.

1 43. Unless enjoined by this court, Muhammad is likely to continue to
2 engage in such conduct. Injunctive relief is therefore appropriate under I.R.C.
3 § 7408.

4 **Count III**

5 **Injunction under I.R.C. § 7402 for Unlawful Interference** 6 **with Enforcement of the Internal Revenue Laws** 7 **and Appropriateness of Injunctive Relief**

8 44. The United States incorporates by reference the allegations in
9 paragraphs 1 through 43.

10 45. Section 7402 of the Internal Revenue Code authorizes a court to issue
11 orders of injunction as may be necessary or appropriate for the enforcement of the
12 internal revenue laws.

13 46. Muhammad, through the actions described above, has engaged in
14 conduct that interferes substantially with the enforcement of the internal revenue
15 laws.

16 47. If Muhammad is not enjoined, the United States will suffer irreparable
17 harm because the losses caused by Muhammad will continue to increase.

18 48. While the United States will suffer irreparable injury if Muhammad is
19 not enjoined, Muhammad will not be harmed by being compelled to obey the law.

20 49. The public interest would be advanced by enjoining Muhammad
21 because an injunction will stop his illegal conduct and the harm that conduct is
22 causing to the United States Treasury and the public.

23 50. If Muhammad is not enjoined, he is likely to continue to interfere with
24 the enforcement of the internal revenue laws.

25 WHEREFORE, the United States of America prays for the following relief:

26 A. That the Court find that Muhammad has engaged in conduct subject to
27 penalty under I.R.C. §§ 6700, 6701, 6694, and 6695, and that injunctive relief
28

1 under I.R.C. §§ 7407 and 7408 is necessary and appropriate to prevent a
2 recurrence of that conduct;

3 B. That the Court find that Muhammad has engaged in conduct interfering
4 with the enforcement of the internal revenue laws, and that injunctive relief is
5 appropriate to prevent the recurrence of that conduct pursuant to the Court's
6 inherent equity powers and I.R.C. § 7402(a);

7 C. That this Court, pursuant to I.R.C. § 7407, enter a permanent injunction
8 prohibiting Muhammad from acting as a federal income tax return preparer;

9 D. That this Court, pursuant to I.R.C. §§ 7402(a) and 7408, enter a
10 permanent injunction prohibiting Muhammad, individually and doing business
11 under any other name or using any other entity, and his representatives, agents,
12 servants, employees, attorneys, associates, and those persons in active concert or
13 participation with him, from directly or indirectly:

- 14 (1) Engaging in activity subject to penalty under I.R.C. § 6700, including
15 organizing or selling a plan or arrangement and making a statement
16 regarding the excludibility of income that he knows or has reason to
17 know is false or fraudulent as to any material matter;
- 18 (2) Engaging in activity subject to penalty under I.R.C. § 6701, including
19 preparing and/or assisting in the preparation of a document related to
20 a matter material to the internal revenue laws that includes a position
21 that he knows will result in an understatement of tax liability;
- 22 (3) Organizing, promoting, marketing, or selling any type of abusive tax
23 shelter, plan, or arrangement, including any asset protection device
24 such as trusts, limited liability corporations, or similar arrangements,
25 advocating noncompliance with the income tax laws or tax evasion,
26 misrepresenting the tax savings realized by using such an
27

1 arrangement or concealing the receipt of income or location of assets
2 from the IRS;

3 (4) Engaging in any other activity subject to penalty under the Internal
4 Revenue Code; and

5 (5) Engaging in other conduct interfering with the enforcement of the
6 internal revenue laws;

7 E. That this Court, pursuant to I.R.C. § 7402(a), enter an injunction
8 requiring Muhammad to contact by mail all individuals, corporations, or business
9 entities for whom he has prepared tax returns, to inform them of the Court's
10 findings concerning the falsity of Muhammad's representations and attach a copy
11 of the permanent injunction against Muhammad, and to file with the Court, within
12 30 days of the date the permanent injunction is entered, a certification that he has
13 done so;


14 F. That this Court, pursuant to I.R.C. § 7402(a), enter an injunction
15 requiring Muhammad to produce to the United States, within 30 days of the date
16 the permanent injunction is entered, a list of the names, Social Security Numbers
17 (or Employer Identification Numbers or Taxpayer Identification Numbers),
18 addresses, e-mail addresses, and telephone numbers of all individuals,
19 corporations, or other business entities for which he has prepared federal tax
20 returns or that have purchased his tax-fraud plans, arrangements, or programs, or
21 any other tax shelter, plan, or program in which Muhammad has been involved;

22 G. That this Court order that the United States is permitted to engage in
23 post-judgment discovery to ensure compliance with the permanent injunction; and
24
25
26
27
28

1 H. That this Court grant the United States such other relief, including the
2 costs of this action, as is just and equitable.

3 Dated this 16th day of August, 2005.

4 DEBRA W. YANG
5 United States Attorney
6 SANDRA BROWN
7 Assistant United States Attorney
8 Chief, Tax Division
9 DARWIN THOMAS
10 Assistant United States Attorney
11 Federal Building Room 7211
12 300 North Los Angeles Street
13 Los Angeles, California 90012
14 Telephone: (213) 894-2400 X2740
15 Facsimile: (213) 894-0115
16 Email: darwin.thomas@usdoj.gov

17 
18 MARY E. BIELEFELD
19 Trial Attorney, Tax Division
20 U.S. Department of Justice
21 Post Office Box 7238
22 Ben Franklin Station
23 Washington, D.C. 20044
24 Telephone: (202) 5114-9375
25 Facsimile: (202) 514-6770
26 Email: mary.e.bielefeld@usdoj.gov
27 central.taxcivil@usdoj.gov

28 Attorneys for Plaintiff,
United States of America